

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 8857

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE ALFONSO TORRES,

Defendant.

MAGISTRATE CASE NO.:

COMPLAINT FOR VIOLATION OF

Title 18, U.S.C., Section 111  
Assault on a Federal  
Officer (Felony); Title 8 U.S.C.  
Section 1324 (a)(1)(A)(iii), Alien  
Harboring

The undersigned complainant, being duly sworn, states:

Count 1.

That on or about October 18, 2007, within the Southern District of California, defendant JOSE ALFONSO TORRES did willfully and forcibly assault, resist, oppose, impede or interfere with a person named in Title 18, United States Code, Section 1114, to wit, U.S. Customs & Border Protection, U.S. Border Patrol Agent Joseph Edward Kirby, was engaged in the performance of his official duties; in violation of Title 18, United States Code, Section 111(a)(1).

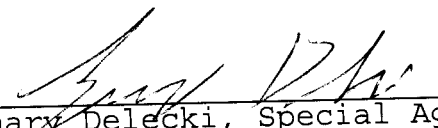
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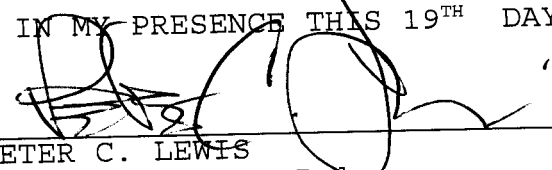
Count 2.

That on or about October 18, 2007, within the Southern District of California, defendant JOSE ALFONSO TORRES did knowingly or in reckless disregard of the fact that Jose Filommeno, an alien, had entered or remained in the United States in violation of law, did attempt to shield, harbor, or conceal Jose Filommeno from detection, in a building, to wit, 739 Encinas Ave., Calexico, CA, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii).

And the complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

  
Zachary Delecki, Special Agent  
Federal Bureau of Investigation

SWORN TO ME AND SUBSCRIBED IN MY PRESENCE THIS 19<sup>TH</sup> DAY OF  
OCTOBER, 2007.

  
PETER C. LEWIS  
U.S. Magistrate Judge

1 UNITED STATES OF AMERICA  
2 v.  
3 JOSE ALFONSO TORRES (1)

4 STATEMENT OF FACTS

5 I, Special Agent Zachary Delecki, declare under penalty of  
6 perjury, the following is true and correct:

7 These facts are based on my personal participation in this  
8 investigation, as well as written and oral statements received from  
9 other law enforcement officers. I submit that the facts contained in  
10 this statement demonstrate that probable cause exists to believe that  
11 the defendants named in the attached complaint committed the crime  
12 charged in the complaint. Additionally, since this statement is being  
13 submitted for the purpose of supporting a criminal complaint, I have  
14 not included each and every fact known to me about the defendant or  
15 this investigation. I have included only those facts which I believe  
16 are necessary to establish probable cause to believe that the  
17 defendants have committed the crime alleged in the complaint.

18 At approximately 2:30 A.M., on Thursday, October, 18, 2007,  
19 United States Border Patrol (USBP) Agent Joseph Edward Kirby, was  
20 assigned to the work the United States and Mexican border in Calexico,  
21 California. Agent Kirby received a radio report from another Border  
22 Patrol Agent alerting him to a person(s) expected to cross into the  
23 United States from Mexico near his position. A short time later Agent  
24 Kirby heard the fence rattle and saw an individual, later identified  
25 as Jose Filommeno run north approximately ten yards behind his  
26 vehicle. Agent Kirby responded in his marked patrol vehicle to 739  
27 Encinas where he witnessed Filommeno towards 739 Encinas Ave., in  
28 Calexico, CA. Agent Kirby then exited his vehicle and pursued

1 Filommeno on foot. Agent Kirby saw Filommeno run into 739 Encinas  
2 Ave., Apt. B. Agent Kirby pursued Filommeno into the apartment but  
3 was stopped when the front door was slammed on him. Agent Kirby had  
4 one arm through the door and a foot inside the door. Agent Kirby  
5 identified himself as a Border Patrol Agent and ordered the person on  
6 the other side of the door to open it. The individual on the other  
7 side of the door, later identified as Jose Torres, slammed the door  
8 several times on Agent Kirby.

9 Agent Kirby sustained a laceration to the head, approximately two  
10 inches long which bled profusely and required medical treatment.

11 Finally, the affiant states that JOSE FILOMMENO is a citizen of  
12 a country other than the United States; that said alien has admitted  
13 that he is deportable; that his testimony is material; that it is  
14 impracticable to secure his attendance at the trial by subpoena; and  
15 he is a material witness in relation to this criminal charge and  
16 should be held or admitted to bail pursuant to Title 18, United States  
17 Code, Section 3144.